



(916) 445-8485

January 27, 1978

Mr.

Dear Mr.

Today Mr. Chris Erikson of the Trinity County Planning Department called me concerning our interpretation of "capable" in Section 51100(f) of the Government Code. As indicated in the letter to you, we have forwarded a copy to him.

In addition, Mr. Erikson inquired concerning the meaning of "which is devoted to and used for growing and harvesting timber", also in section 51100(f). We will be responding to his inquiry in the next several days, and we will send you a copy of our reply.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fp

cc: Mr. Chris Erikson

Timber Tax

January 27, 1978

Mr.

Dear Mr.

This is in response to your inquiry concerning the meaning of "capable" in Section 51100(f) of the Government Code:

"(f) 'Timberland' means privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre."

As you are aware, the Legislature intended in enacting the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976 to encourage the protection of immature trees and the continued use of timberlands for the production of trees for timber products, and to provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. Other findings and declarations in this regard are set forth in Sections 1 and 2 of the Act, copy enclosed.

Against that background, and given the syntax of section 51100(f): timberland means land which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre, it is our opinion that "capable" refers to land which, if properly stocked, could support such an average annual volume.

Such a conclusion is consistent with the provisions of section 51113 of the Code. Section 51113(a)(1) provides that after November 1, 1977, an owner may petition the board or council to zone his land as timberland preserve. The board or council by ordinance is to then zone as timberland preserve all parcels submitted to it by petition, which meet all of the criteria adopted pursuant to subdivision (c). Section 51113(c)

January 27, 1978

provides that on or before March 1, 1977, the board or council by ordinance is to have adopted a list of criteria required to be met by parcels being considered for zoning as timberland preserve under the section, including the following:

"(3) The parcel shall currently meet the timber stocking standards as set forth in Section 4561 of the Public Resources Code and the forest practice rules adopted by the State Board of Forestry for the district in which the parcel is located, or the owner must sign an agreement with the board or council to meet such stocking standards and forest practice rules by the fifth anniversary of the signing of such agreement. If the parcel is subsequently zoned as timberland preserve under subdivision (a), then failure to meet such stocking standards and forest practice rules within this time period provides the board or council with a ground for rezoning of the parcel pursuant to Section 51121."

Accordingly, parcels which do not meet timber stocking standards and forest practice rules can be zoned as timberland preserve if the owner signs an agreement to meet such standards and rules by the fifth anniversary of the signing of the agreement. Section 51113(c) then goes on to provide:

"Upon the fifth anniversary of the signing of such an agreement, the board shall determine whether the parcel meets the timber stocking standards in effect on the date the agreement was signed. Notwithstanding the provisions of Article 4 of this chapter, if the parcel fails to meet the timber stocking standards, the board or council shall immediately rezone the parcel and specify a new zone for such parcel which is in conformance with the county general plan and whose primary use is other than timberland;"

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fp
Enclosure

cc: Mr. Chris Erikson, Trinity County Planning Department
bc: Mr. Abram F. Goldman Mr. Jack F. Eisenlauer
 Mr. Glenn L. Rigby Mr. Paul Crebbin
 Mr. Walter R. Senini Mr. Frank Wilson

(916) 445-5485

February 1, 1978

Mr. H_____

Dear Mr. H_____:

This is intended to supplement the third paragraph of my January 27, 1978, letter to you:

“Against that background, and given the syntax of section 61100(f): timberland means land which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre, it is our opinion that ‘capable’ refers to land which, if properly stocked, could support such an average annual volume.”

Upon dissemination of the letter, a question was raised concerning the phrase “if properly stocked” in that paragraph. To avoid any confusion in this regard, “capable” as used in section 61100(f) refers to land, which could support an average annual volume of wood fiber of at least 15 cubic feet per acre. This would include both land, which is currently growing such an average annual volume, and land, which is not currently growing such an average annual volume, but, if properly stocked, could grow such an average annual volume.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fp

cc: Mr. Chris Erikson
Trinity County Planning Department

bcc: Mr. Abram F. Goldman
Mr. Glenn L. Rigby
Mr. Walter r. Senini
Mr. Jack F. Eisenlauer
Mr. Paul Crebbin
Mr. Frank Wilson